



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

AUG 1 8 2006

Kevin E. Anderson, Esq.
Parry, Anderson & Gardiner
60 East South Temple
Salt Lake City, Utah 84111

RE: MUR 5598
Utah Republican Party -
Federal Account and
Mike McCauley, in his
official capacity as treasurer

Dear Mr. Anderson:

The Federal Election Commission ("the Commission") previously notified your clients, the Utah Republican Party - Federal Account ("the Committee") and Mike McCauley, in his official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on July 27, 2006, found that there is reason to believe the Committee and Mike McCauley, in his official capacity as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 434(b), and 441d. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

Your clients may submit any factual or legal materials that they believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Subpoena to Produce Documents and Order to Answer Questions must be submitted to the General Counsel's Office within 30 days of your receipt of this letter. Any additional materials or statements you wish to submit should accompany the response to the Subpoena and Order. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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If your clients are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondents.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that your clients wish the matter to be made public.

If you have any questions, please contact Thomas J. Andersen, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Michael E. Toner
Chairman

Enclosure

Factual and Legal Analysis

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1 not have been paid at all. Thus, it is unclear whether the URP in fact paid for all of the brochures
2 at issue. Moreover, it is not clear that the degree of volunteer involvement in the distribution of
3 the brochures was sufficient to qualify the brochures as "volunteer materials." If the brochures
4 did not qualify as "volunteer materials," then coordination of them between the URP and the
5 Swallow campaign could have resulted in excessive contributions from the URP to John
6 Swallow and the Swallow Committee.

7 Based on the facts presented in the complaint, the response, as well as other available
8 information, there is reason to believe that the Utah Republican Party (Federal Account) and
9 Mike McCauley, in his official capacity as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A) by
10 making excessive contributions to John Swallow and the Swallow Committee, 434(b) by failing
11 to report all of its contributions or coordinated party expenditures, and possibly a debt owed to
12 Arena, in connection with the brochures, and 441d by failing to include the appropriate
13 disclaimer on the brochures.

14 **II. FACTUAL & LEGAL ANALYSIS**

15 **A. The "Volunteer Materials" Exemption**

16 The purpose of the volunteer materials exemption is "to encourage volunteers to work for
17 and with local and State political party organizations." H.R. Rep. No. 422, 96th Cong., 1st Sess. 9
18 (1979), *reprinted in FEC Legislative History of Federal Election Campaign Act Amendments of*
19 *1979* at 193 (GPO 1983). Thus, for the exemption to apply, the materials must be "distributed by
20 volunteers and not by commercial or for-profit organizations." 11 C.F.R. §§ 100.87(d),
21 100.147(d).

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